

Clearinghouse Rule 16-038

ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION ADOPTING PERMANENT RULES

The scope statement for this rule, SS 071-15, was published in Register No. 716A2, on August 10, 2015, and approved by State Superintendent Tony Evers on August 24, 2015. Pursuant to *Coyne v. Walker*, the Department of Public Instruction is not required to obtain the Governor's approval for the statement of scope for this rule. *Coyne v. Walker*, 368 Wis.2d 444.

The State Superintendent of Public Instruction hereby proposes to repeal ss. PI 24.03 (1) (a) 2. and 3. and (b) and (c), and PI 24.03 (3) (b) and (c); to renumber and amend ss. PI 24.03 (1) and (a) 1.; to consolidate, renumber and amend ss. PI 24.03 (3) (intro.) and (a); to amend ss. PI 24.015 (1) and (2) and (4), PI 24.02, PI 24.03 (2) (title), and PI 24.03 (Note); and to create PI 24.03 (2m); relating to changes to PI 24 as a result of 2011 Wisconsin Act 105 and 2015 Wisconsin Act 53.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: ss. 118.43 (6) and 118.44 (6), Stats.

Statutory authority: ss. 118.43 (6m) and 118.44 (6) (e), Stats.

Explanation of agency authority:

Under s. 118.43 (6m), Stats., the Department is given statutory authority to promulgate rules with respect to payment of state aid under the Student Achievement Guarantee in Education program under s. 118.43 (6), Stats.

118.43 Achievement guarantee contracts; state aid.

(6m) Rules. The department shall promulgate rules to implement and administer the payment of state aid under sub. (6).

Additionally, under 118.44 (6) (e), Stats., the Department is given statutory authority to promulgate rules with respect to the payment of state aid under the Achievement Gap Reduction program under s. 118.44 (6), Stats.

118.44 Achievement gap reduction; state aid.

(6) State aid.

(e) The department shall promulgate rules to implement and administer the payment of state aid under this subsection.

As such, PI 24 is needed to implement changes to statute with respect to both programs.

Related statute or rule: N/A

Plain language analysis:

This proposed rule change will align PI 24 with the statutory changes made as a result of 2011 Wisconsin Act 105, related to the Student Achievement Guarantee in Education program, and 2015 Wisconsin Act 53 with respect to the calculation and payment of state aid under the newly created Achievement Gap Reduction program. Changes in the proposed rule include:

- Inserted references to the new Achievement Gap Reduction Program throughout the rule chapter where necessary
- Eliminated outdated or unnecessary references to statute under the Student Achievement Guarantee in Education program
- Determined a method for calculating state aid under both programs

Summary of, and comparison with, existing or proposed federal regulations: N/A

Comparison with rules in adjacent states: N/A

Summary of factual data and analytical methodologies:

The proposed rule change is needed to align PI 24 with the statutory changes enacted as a result of 2011 Wisconsin Act 105 and 2015 Wisconsin Act 53. Otherwise, the rule will not reflect current law.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: N/A

Anticipated costs incurred by private sector: N/A

Effect on small business:

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Agency contact person: (including email and telephone)

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Place where comments are to be submitted and deadline for submission:

Comments should be submitted by September 6, 2016, to Carl Bryan at the Department of Public Instruction, 125 S. Webster Street, P.O. Box 7841, Madison, WI 53707-7841 or at adminrules@dpi.wi.gov. The Department will publish a hearing notice in the *Administrative Register* which will provide information on the deadline for the submission of comments.

SECTION 1. PI 24.015 (1) and (2) and (4) are amended to read:

(1) "Aid" or "appropriation" means funds available for the SAGE program and for school districts with Achievement Gap Reduction contracts under s. 20.255 (2) (cu), Stats., minus the amount needed for the evaluation under s. ~~118.43 (7)~~118.44 (7), Stats.

(2) "Eligible school" means a school within a public school district whose board has entered into or renewed a contract under s. ~~118.43 (2) (g) or (3) (ar)~~118.44, Stats.

(4) "Low-income" has the meaning defined under ~~s.~~ss. 118.43 (1) (b) and 118.44 (1) (c), Stats.

SECTION 2. PI 24.02 is amended to read:

PI 24.02 Purpose. Under ~~s.~~ss. 118.43 (6m) and 118.44 (6) (e), Stats., the department is required to promulgate rules to implement and administer the payment of aid under this subchapter. The department shall calculate and pay aid to school districts ~~on behalf of eligible schools an amount not to exceed \$2,000 multiplied by the number of low income pupils enrolled in the grades eligible for funding in each eligible school~~ as provided in ss. 118.43 (6) (b) 11. and 118.44 (6) (bm), Stats. This subchapter sets forth requirements for collecting data and paying aid under ~~s.~~ss. 118.43 (6) and 118.44 (6), Stats.

SECTION 3. PI 24.03 (1) and (a) 1. is renumbered PI 24.03 (1) and amended to read:

(1) AID CALCULATION. ~~(a) October calculation. 1.~~ The department shall calculate the amount of aid to be paid in each school year to the school district of each eligible school. The amount appropriated under s. 20.255 (2) (cu), Stats., as noted in s. 118.44 (6) (bm), Stats., shall be divided by the sum of low-income pupils in the state enrolled in a grade eligible for funding by multiplying the number of low income pupils enrolled in grades kindergarten through grade 3 reported by each eligible school under sub. (3) (a) to determine the amount of aid generated by each low-income pupil. The amount generated by each low-income pupil shall be multiplied by the sum of low-income pupils within a school district enrolled in a grade eligible for funding in each eligible school of a school district to determine the amount of aid to be paid to the school district by \$2,000.

SECTION 4. PI 24.03 (1) (a) 2. and 3. and (b) and (c) are repealed.

SECTION 5. PI 24.03 (2) (title) is amended to read:

(2) PAYMENT OF SAGE AND ACHIEVEMENT GAP REDUCTION AID.

SECTION 6. PI 24.03 (2m) is created to read:

(2m) CEASE PAYMENTS FOR CONTRACT WITHDRAWAL. Aid for schools that withdraw from a contract under s. 118.43 or 118.44, Stats., at any point during the school year will be recalculated to reflect the portion of the school year that the eligible school was under a contract under s. 118.43 or 118.44, Stats. The withdrawing school will receive payment of a prorated amount per day that the school was operating under a contract under s. 118.43 or 118.44, Stats. The funds that would have otherwise been paid to a school district that withdraws from a contract shall be recalculated as defined under sub. (1) and disbursed proportionately to all remaining eligible schools with contracts under s. 118.43 or 118.44, Stats.

SECTION 7. PI 24.03 (3) (intro.) and (a) are consolidated, renumbered PI 24.03 (3) and amended to read:

(3) SCHOOL DISTRICT REQUIREMENTS. To receive aid under this subchapter, an eligible school shall ~~meet the following requirements: (a) *October report.* By~~ by the third Friday in October, ~~each eligible school shall report to the department, on a form supplied by the department, the number of low-income pupils enrolled in a grades kindergarten to grade 3 eligible for funding in the eligible school on the third Friday in September.~~

SECTION 8. PI 24.03 (3) (b) and (c) are repealed.

SECTION 9. PI 24.03 (Note) is amended to read:

Note: SAGE ENT, the SAGE low-income report form, and AGR ENT, the Achievement Gap Reduction low-income report form, may be obtained at no charge from the Department of Public Instruction, P.O. Box 7841, Madison, WI 53707-7841 or online at <https://apps5.dpi.wi.gov/formcoll/>.

SECTION 10. EFFECTIVE DATE:

The proposed rules contained in this order shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.